

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALLIANT GROUP, LP 4:16-cv-03114
VS. June 21, 2017
Houston, Texas
MOLS 4:03:42 p.m.

HEARING

BEFORE THE HONORABLE NANCY K. JOHNSON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff	Matthew Lee Simmons Littler Mendelson 1301 McKinney Street Suite 1900 Houston, Texas 77010 John Thomas Simpson, Jr. Alliantgroup, LP 3009 Post Oak Boulevard Suite 2000 Houston, Texas 77056
For Defendant Brad Mols, Movant Cindy Berkson Mols	Brian Scott Humphrey, II Abraham, Watkins, Nichols, Sorrels, Agosto & Aziz 800 Congress Street Houston, Texas 77002
For Third Party Witnesses (Telephonically)	Rob Hennig Duyen Nguyen Hennig Ruiz, PC 1925 Century Park East Suite 1960 Los Angeles, California 90067

Proceedings from official electronic sound recording;
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APPEARANCES (Cont.):

Court Clerk

Shannon Jones

Electronic Recording Operator

Linhthu Do
U. S. District Clerk's
Office
515 Rusk
Houston, Texas 77002

1 THE COURT: All right. Good afternoon,
2 everyone. Please be seated. Sorry I couldn't see you
3 earlier. I'm on criminal duty, and I'm swamped.

4 So, apparently, there's a dispute over
5 Mr. Jadav's deposition tomorrow, correct?

6 MR. SIMMONS: Yes, Your Honor.

7 MR. HUMPHREY: There is, Your Honor.

8 THE COURT: And that's because Mr. Humphrey
9 violated the Protective Order?

10 Let's talk about the Protective Order for
11 just a minute. Why wasn't it filed? Right? I mean,
12 Judge Lake has never signed it.

13 MR. HUMPHREY: I -- when they asked me to sign
14 it, Your Honor; I sent it back to them, and they said
15 they'd file it and they never did.

16 MR. SIMMONS: That -- that's my understanding,
17 that -- I don't know whether we've said we would file it
18 or not, but my understanding is that the parties were
19 operating under it according to the e-mails between
20 Mr. Humphrey and -- and the counsel at the time. My
21 firm was not involved at the time that it was being
22 discussed, but that was my understanding is that they
23 had an agreement and --

24 THE COURT: All right. Well, it sounds like
25 you --

1 MR. SIMMONS: -- even though it hadn't been
2 filed.

3 THE COURT: -- an agreement and you never
4 submitted it to the judge to sign. So, I'm going to sign
5 it just so there's no question there is a Protective
6 Order. Today is the 21st.

7 COURT CLERK: Judge, which Protective Order --
8 which docket number is that on?

9 THE COURT: It's -- I'm signing it right now.
10 It's 50-2.

11 COURT CLERK: Okay.

12 THE COURT: And you can file that as its own
13 free-standing --

14 COURT CLERK: Okay.

15 THE COURT: -- matter.

16 As I understand it, then, Mr. Simpson,
17 you're concerned that Mr. Humphrey violated the
18 Protective Order by filing something, what was it,
19 someone's -- two pages from someone's deposition?

20 MR. HUMPHREY: That's correct, Your Honor. It
21 was two pages from Lynn Hedlund's deposition. They had
22 designated the entire deposition at the very beginning
23 as confidential, and I had just forgotten that fact,
24 which was my mistake.

25 THE COURT: And is it sealed up now?

1 MR. HUMPHREY: I have filed a Motion to Seal
2 it, Your Honor.

3 THE COURT: All right. Shannon, can we pull
4 that up and seal up? Any --

5 COURT CLERK: There is no ob- --

6 THE COURT: -- objection? I mean, you know --

7 MR. SIMMONS: No, no objection to that, Your
8 Honor.

9 THE COURT: So --

10 MR. SIMMONS: And I -- I --

11 COURT CLERK: I can --

12 MR. SIMMONS: -- I demanded that he did that.

13 MR. HUMPHREY: It is -- the Motion to Seal is
14 Docket 43. The Protective Order -- I think I have it
15 right here. It was Exhibit 3 to my motion for
16 protection, Your Honor, and Docket 38 is the motion for
17 protection.

18 COURT CLERK: So 38, Exhibit 3?

19 MR. HUMPHREY: That's correct.

20 COURT CLERK: Okay.

21 MR. SIMMONS: Is it the Protective Order?

22 MR. HUMPHREY: It was my motion for --

23 THE COURT: Motion --

24 MR. HUMPHREY: -- protection.

25 THE COURT: -- for protection.

1 MR. HUMPHREY: That the exhibit was attached
2 to my motion for protection.

3 MR. SIMMONS: Oh, okay, yeah. Yeah.

4 THE COURT: All right. So, let's seal -- can
5 we just seal Exhibit 3?

6 COURT CLERK: I'm going to try to do that just
7 by itself.

8 (Pause in proceedings.)

9 COURT CLERK: Okay. It's done.

10 THE COURT: All right. That looks like that
11 worked.

12 Now, and there's the issue that you think
13 Mr. Mols' wife has had access to confidential
14 information?

15 MR. SIMMONS: She was attached. It -- it was
16 her motion that that designated confidential information
17 was part of, and so that's the basis of that.

18 So, I don't know whether she had access to
19 the entire deposition. She was a party filing the
20 motion, and part of that filing of the motion was an
21 exhibit that had documents that were designated as
22 confidential.

23 THE COURT: All right.

24 MR. SIMMONS: That's the --

25 THE COURT: Did Ms. Mols see any part of that

1 deposition?

2 MR. HUMPHREY: No, Your Honor. My client
3 hasn't seen it other than the fact that he was present
4 at the deposition.

5 THE COURT: Okay. All right. So that sounds
6 fine.

7 So then we get down to the deposition.
8 It's my opinion you need to -- you need to go forward
9 with Mr. Jadav's deposition.

10 Now, if you keep violating the Protective
11 Order, you know, stuff will happen.

12 MR. HUMPHREY: That's my --

13 THE COURT: But --

14 MR. HUMPHREY: -- understanding, Your Honor,
15 completely.

16 THE COURT: -- you know, discovery ends at the
17 end of the -- end of next week.

18 MR. SIMMONS: Actually, Your Honor, I believe
19 that -- that in our last hearing, we had extended the
20 discovery --

21 THE COURT: We --

22 MR. SIMMONS: -- period.

23 THE COURT: Was I lenient? I thought I
24 remembered that, but then I thought everything's been so
25 crazy with criminal, I can't remember anything.

1 MR. SIMMONS: I absolutely understand.

2 And one of the things that -- that we
3 pointed out in our motion for protection, along with,
4 obviously, the confidentiality concerns and whether the
5 information asked of the CEO of our company will then be
6 leaked later is, A, the nec- -- the necessity of it.
7 We're -- we're fine with presenting. We believe that
8 any information that he has provided we've already
9 answered -- or -- or that he'd be asked about we've
10 answered in interrogatories and we've answered with
11 three other senior executives of the company.

12 So, this is a trade secrets case against
13 Mr. Mols. I have never been involved in a case that
14 requires testimony after testimony, of more and more
15 senior executives, asking the same exact questions which
16 have already been answered.

17 THE COURT: So what --

18 MR. SIMMONS: But --

19 THE COURT: What do you think you're going to
20 get out of Mr. Jadav that you haven't gotten out of
21 anyone else?

22 MR. HUMPHREY: I want to know why they've sued
23 my client, Your Honor. They have designated him as a
24 person with -- an individual with discoverable
25 information, have desig- -- sorry, designated him as a

1 person who has personal knowledge of the facts
2 underlying their case in their response to an
3 interrogatory. When I deposed Wes Bangerter, who's the
4 one who verified their interrogatories, every time I
5 asked about an allegation they had, I asked him where he
6 heard that, he said, "I heard it from Mr. Jadav and
7 David Ji," "I heard it from Mr. Jadav," and somebody
8 else. It was always something he heard from Mr. Jadav.
9 So, the only person who has personal knowledge of
10 everything that I can gather from my own discovery in
11 this case is Mr. Jadav.

12 So, certainly I need to ask them what they
13 know about the -- why they're suing my client. Because
14 if I have the universe of information they had in order
15 to decide to sue my client, I think this may be a
16 Rule 11 sanctionable case.

17 THE COURT: All right. So how long have you
18 deposed these other witnesses?

19 MR. HUMPHREY: Bangerter was maybe an hour,
20 and I don't think I've taken more than maybe an hour and
21 a half maximum with a witness.

22 So, I know one other issue in this
23 deposition is that they've brought up in an e-mail but
24 not the motion for protection are the sexual harassment
25 allegations against Mr. Jadav. I would agree that if

1 this was just a case where the only allegations were
2 he -- that my client violated a non-solicit agreement,
3 then that may not be relevant. However, they've made my
4 client's reasons for leaving Alliantgroup very relevant.
5 They've alleged that he engaged in conspiracy with
6 Ms. -- Ms. Torres before they left Alliantgroup,
7 preparing to go and compete; and that certainly makes
8 his actual reason for leaving relevant.

9 They, in fact, asked Mr. -- I included
10 as an exhibit some of the other questions they asked
11 about Mr. Mols' and Ms. -- Ms. Torres's sexual history,
12 but they also asked --

13 THE COURT: What --

14 MR. HUMPHREY: -- a number of questions
15 about --

16 THE COURT: What are you pointing to?

17 MR. HUMPHREY: Oh, that was Exhibit 8 to my
18 Motion to Compel.

19 But, also, I have something that's not
20 attached as an exhibit but some more pages from a
21 deposition where they asked specifically --

22 THE COURT: Okay.

23 MR. HUMPHREY: -- why did you leave if you
24 were making so much money, and Mr. Mols talked about the
25 sexual harassment charge and they asked numerous

1 questions about that.

2 They certainly see his reasons for
3 leaving Alliantgroup to be relevant, and part of that
4 reason is the sexual harassment allegations by
5 Ms. Torres against Mr. Jadav.

6 Now, if they want to stipulate that
7 sexual harassment was one of his reasons for leaving,
8 then, I may not need to ask any of those questions; but
9 as long as they're going to question my client's reason
10 for leaving Alliantgroup, I think I have to check into
11 the veracity of that.

12 THE COURT: So, just bring me up to speed.
13 Ms. Torres was sexually harassed, allegedly, by
14 Mr. Jadav?

15 MR. HUMPHREY: Correct, Your Honor.

16 THE COURT: She leaves?

17 MR. HUMPHREY: Correct, Your Honor.

18 THE COURT: Voluntarily?

19 MR. HUMPHREY: Yes.

20 THE COURT: All right. She's not fired. And
21 then your client, Mr. Mols, also voluntarily leaves?

22 MR. HUMPHREY: Yes, Your Honor.

23 THE COURT: And he -- because he is offended
24 by her treatment?

25 MR. HUMPHREY: Yes, Your Honor. I mean, he

1 didn't like the culture there and what was going on
2 there. That's -- the question was why did he leave when
3 he was making millions of dollars. That's why. He
4 didn't want to be a part of that.

5 THE COURT: Okay. So, you want to ask
6 Mr. Jadav whether or not he did sexually harass
7 Ms. Torres?

8 MR. HUMPHREY: Yes, Your Honor.

9 MR. SIMMONS: And -- and, sorry, Your Honor,
10 the only reason why that even came up in Mr. Mols'
11 deposition is because he used that as an excuse for why
12 he left. None of those questions would have been asked
13 otherwise.

14 Now, what he's asking for is that if any
15 employee does something wrong, they can just say, "I did
16 it wrong because of the CEO's sexual behavior," and then
17 somehow because of that allegation, whether or not it's
18 true or not, they get to get and ask the CEO detailed
19 questions about his sexual life. The -- the
20 consequences of -- of --

21 THE COURT: No --

22 MR. SIMMONS: -- allowing that --

23 THE COURT: -- they get to ask if he's
24 sexually harassing Ms. Torres. I'm assuming -- did they
25 have a sexual relationship?

1 MR. HUMPHREY: That's what the allegation is,
2 or at least that there's a sexual -- an attempted sexual
3 relationship between the two.

4 MR. SIMMONS: There --

5 THE COURT: But there's -- but, I mean, it's
6 not his sex life, unless he's engaged in some sort of --

7 MR. SIMMONS: And -- and that -- that's my
8 concern, okay, that where -- where the line is on asking
9 about the -- the veracity of these allegations, you get
10 into, "Well, have you ever done it before, even if you
11 didn't do it here?"

12 THE COURT: No, you can ask --

13 MR. SIMMONS: I want your --

14 THE COURT: -- about Ms. Torres, and that's
15 it. I mean --

16 MR. HUMPHREY: Sure, Your Honor. That's --

17 THE COURT: And -- and his sex life is off
18 Limits, except to the extent it extends to Ms. Torres.

19 MR. HUMPHREY: That's all I need to ask, Your
20 Honor.

21 MR. SIMMONS: And then, also, specifically any
22 harassment of Ms. Torres. I -- I think that --

23 THE COURT: Yes. Yes --

24 MR. SIMMONS: Yeah --

25 THE COURT: -- that's --

1 MR. SIMMONS: -- absolute- -- absolutely.

2 And -- and that's actually one of the
3 things that -- that we wanted to clarify here today so
4 that my client and any -- anything else that went on
5 between him or anyone else or him and Ms. Torres is not
6 a subject of this deposition and then leaked to the
7 press -- because, you know, Counsel and Mr. Hennig have
8 already admitted that they've been talking to the press
9 about those allegations -- and whether his commenting on
10 those allegations would be confidential under the agreed
11 Protective Order.

12 Because -- I mean, do you think that
13 they're confidential?

14 MR. HUMPHREY: Is what confidential?

15 MR. SIMMONS: Whatever Mr. Jadav says about
16 the sexual harassment claims.

17 MR. HUMPHREY: If he designates it as
18 confidential, I'll look at it, and if I don't agree with
19 it, I'll challenge it.

20 MR. SIMMONS: So --

21 MR. HUMPHREY: It depends on what's asked.

22 MR. SIMMONS: So anything related to that can
23 and will be leaked to the press is what he's saying.

24 THE COURT: All right. So, this is what we'll
25 do. Everything's confidential. If you think it's not,

1 then you can come here and we will decide what is
2 confidential under the agreement and what's not. No
3 leaks --

4 MR. HUMPHREY: Of course, Your Honor.

5 THE COURT: No leaks before the Court says
6 it's not part -- it's not confidential under your
7 agreement. Okay?

8 Subject to that, he's got to be deposed.
9 It sounds like you can do it in less than two hours?

10 MR. HUMPHREY: Probably, depending on the
11 responsiveness, but I don't like to take long
12 depositions, Your --

13 THE COURT: Okay.

14 MR. HUMPHREY: -- Honor.

15 THE COURT: Then let's say limited to two
16 hours. If you need to go over, call me up and tell me
17 why he's being nonresponsive.

18 MR. HUMPHREY: Understood, Your Honor.

19 THE COURT: And where is that deposition going
20 to be taken? Here?

21 MR. HUMPHREY: At Counsel's office in Houston.

22 THE COURT: All right. Good.

23 MR. SIMMONS: Now, because of these motions,
24 we haven't necessarily had a chance to prepare
25 him, adequately prepare him for his deposition.

1 I think that we -- we could do it tomorrow, but I think
2 pushing it back a little bit later than the notice time
3 would be ideal.

4 THE COURT: What's your position on that,
5 Mr. Humphrey.

6 MR. HUMPHREY: Well, my plan was to go to the
7 State Bar meeting tomorrow, but if that's necessary -- I
8 know.

9 THE COURT: That shows some bad judgment.

10 MR. HUMPHREY: It is bad judgment, Your Honor,
11 but I've made a commitment to do it. But if -- if
12 that's necessary, I can certainly agree to do it.

13 The deposition's been noticed for three
14 weeks, Your Honor. I don't know why they need more
15 time, but if that's the case --

16 THE COURT: What time is it noticed for?

17 MR. SIMMONS: I believe it's noticed for 9:30.

18 MR. HUMPHREY: 10:00 o'clock. 10:00 o'clock,
19 Your Honor.

20 THE COURT: 10:00 o'clock.

21 MR. SIMMONS: 9:30 or 10:00. So, if --
22 if we can push it to 1:00 o'clock, a two-hour deposition,
23 that's 3:00.

24 THE COURT: What time's the State Bar meeting?

25 MR. HUMPHREY: Well, there's a Tax Section

1 dinner my wife's involved in that night. I may be able
2 to make it after 5:00 if I leave by 3:00. It's not that
3 critical, Your Honor.

4 THE COURT: Oh, it's in - where it it?

5 MR. HUMPHREY: Dallas.

6 THE COURT: Dallas?

7 MR. HUMPHREY: Yeah. I -- I'm fine pushing
8 it back to 1:00 o'clock, Your Honor.

9 THE COURT: All right. 1:00 o'clock it is.

10 MR. HUMPHREY: Okay.

11 THE COURT: All right.

12 MR. HUMPHREY: They said to get involved.

13 THE COURT: Yeah.

14 THE COURT: Just think about who said it.

15 I know you've got other motions. I'm
16 just too busy right now to get to writing out even my
17 minute entry from that last time. You know, I promise I
18 will do it. It's just criminal has -- they are pounding
19 me. So.

20 MR. HUMPHREY: Uh-huh.

21 THE COURT: And just it's hard to keep up with
22 the paperwork, even doing work on the weekends. So, I
23 will get it, and I will look at your motion. I know
24 you've got something pending.

25 What else is going on in this case?

1 MR. SIMMONS: We -- we have several orders
2 based on the hearing.

3 THE COURT: I've seen those. I want to -- I
4 want to look at it.

5 MR. SIMMONS: Right.

6 THE COURT: I don't normally sign --
7 I appreciate proposed orders, but --

8 MR. SIMMONS: Well, it's --

9 THE COURT: -- I usually write my own.

10 MR. HUMPHREY: I --

11 MR. SIMMONS: Right. And some of them needed
12 calculations and an affidavit --

13 THE COURT: Right.

14 MR. SIMMONS: -- from me on damages and things
15 like that.

16 We also have two motions for sanctions
17 that we discussed briefly in the June 12th hearing,
18 which were evasion of service and conduct or --

19 THE COURT: Right.

20 MR. SIMMONS: -- misconduct during the
21 deposition.

22 MR. HUMPHREY: I will --

23 MR. SIMMONS: That's --

24 MR. HUMPHREY: Oh, sorry.

25 MR. SIMMONS: That -- that's --

1 MR. HUMPHREY: I didn't mean to --

2 MR. SIMMONS: -- really the -- the scope of
3 our --

4 MR. HUMPHREY: I will say the proposed orders
5 on their motion to compel and my motion for protection I
6 don't believe correspond to the Court's orders and what
7 was discussed --

8 THE COURT: Okay.

9 MR. HUMPHREY: -- at the --

10 THE COURT: I'll look.

11 MR. HUMPHREY: -- meeting -- are they in here,
12 Your Honor.

13 THE COURT: All right. Good enough. Well,
14 I'm glad you're moving along with this case. If not,
15 have a good day.

16 MR. SIMMONS: Thank you, Your Honor.

17 MR. HUMPHREY: Thank you, Your Honor.

18 (Proceedings concluded at 4:18:42 p.m.)
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IN THE UNITED STATES DISTRICT COURT
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HOUSTON DIVISION

I, Linda Griffin, court-approved transcriber,
certify that the foregoing is a correct transcript from
the official electronic sound recording of the
proceedings in the above-entitled matter.

/s/ Linda Griffin
Linda Griffin
Digital Scroll Transcription

July 5, 2017
Date